UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD WASHINGTON, D.C.

VERITAS HEALTH SERVICES, INC. d/b/a CHINO VALLEY MEDICAL CENTER,

Case No. 31-CA-30105

Respondent,

v.

UNITED NURSES ASSOCIATIONS OF CALIFORNIA/UNION OF HEALTH CARE PROFESSIONALS, NUHHCE, AFSCME, AFL-CIO,

Charging Party.

ERRATA

The exhibits to the Declaration of Theodore R. Scott in Support of Response to Notice to Show Cause were inadvertently omitted from the Declaration when filed. Attached hereto is the Declaration with exhibits attached.

Dated: March 24, 2011

THEODORE R. SCOTT

LITTLER MENDELSON
A Professional Corporation
501 W. Broadway, Suite 900
San Diego, CA 92101.3577
Telephone: 619.515.1837
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Attorneys for Respondent VERITAS HEALTH SERVICES, INC. d/b/a CHINO VALLEY MEDICAL CENTER

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DECLARATION OF THEODORE R. SCOTT IN SUPPORT OF RESPONSE TO NOTICE TO SHOW CAUSE

I, THEODORE R. SCOTT, hereby declare as follows:

1. Identification. I am an attorney at law duly licensed to practice law by the state bars of California and Arizona and have also been admitted to practice before numerous U.S. District Courts, Courts of Appeal and the United States Supreme Court. I am a shareholder in the law firm of Littler Mendelson, a Professional Corporation, attorney of record for VERITAS HEALTH SERVICES, INC. dba CHINO VALLEY MEDICAL CENTER in the above-captioned matter and have been involved in representing the Respondent in proceedings relating to Case 31-RC-8795, the Charging Party Union's demand for information and to bargain made in April 2010, the Employer's response thereto, and various other matters involving the Union's efforts to organize the RNs employed by Respondent. I am also familiar with Kathy Sackman and have had a number of communications with her over the years. I have personal knowledge of the facts set forth herein and if called as a witness I could and would competently testify thereto and authenticate all documents referenced in this declaration.

2. <u>Demand for Bargaining and Employer Response</u>. Attached to this Declaration as Exhibit 1 is a true and correct copy of an April 9, 2010 letter from the Union to the Employer. Attached hereto as Exhibit 2 is a true and correct copy of the Employer's April 14, 2010 response.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 22nd day of March, 2011, at San Diego, California.

THEODORE R. SCOTT



UNAC/UHCP

United Nurses Associations of California/Union of Health Care Professionals UNAC/UHCP is affiliated with NUHHCE, AFSCME and the AFL-CIO

955 Overland Court, Suite 150 San Dimas, CA 91773-1718 Telephone: (909) 599-8622

Fax: (909) 599-8655

Website: http://www.unac-ca.org

April 9, 2010

VIA CERTIFIED MAIL

James Lally, Chief Medical Officer Chino Valley Medical Center 5451 Walnut Avenue

Chino, CA 91710

Re:

Demand for Bargaining and Request for Information

for Registered Nurses Unit at Chino Valley Medical Center

Dear Dr. Lally,

Now that the Registered Nurses have voted for union representation, National Labor Relations Board law prohibits the Employer from making any unilateral changes to the employees' wage, hours, or other terms and conditions of employment after the date of the election without affording this Union an opportunity to bargain. Any such unilateral changes would become unfair labor practices subject to the issuance of the NLRB's certification of the election results.

Thus, we insist that, henceforth, you honor your legal responsibility to make no unilateral changes with respect to the terms and conditions of employment of any employee in the bargaining unit without affording an opportunity to this Union to bargain over the decision and effects of any such change. The following is a list of those changes which we insist may not be made without bargaining over the decision and the effects. The list is not inclusive, but is simply illustrative of those changes.

- 1. No changes should be made to any term or condition of employment between you and the bargaining unit employees;
- 2. No promotional position should be filled without bargaining;
- 3. No employees should have their hours changed without bargaining;
- 4. No employee should be warned, counseled, disciplined or terminated without bargaining. Indeed, no discipline should be imposed without affording the employee his Weingarten rights, which we hereby demand;

RECEIVED ADMINISTRATION

- Bargaining Demand & Information Request April 9, 2010 Page 2
 - 5. No one should be hired without bargaining over the person who should fill the position;
 - 6. No employee should be laid off without bargaining;
 - 7. No health and welfare, pension or other fringe benefits should be denied without bargaining;
 - 8. No positions outside the bargaining unit should be filled without bargaining over the question of transfer or promotion;
 - 9. No work location, assignment, classification or any other aspect of employment should be changed without bargaining;
 - 10. No changes in the method and manner by which work is being performed may be made without bargaining;
 - 11. No introduction of any new work techniques without bargaining; and
 - 12. No subcontracting or any changes in the workplace should be made without bargaining.

We demand that if there are any wage increases or benefit increases which would have normally occurred without the Union, those should be implemented in the normal course of business. We insist, however, on being notified in advance of any such changes so that we can bargain over those changes. Although included in the bargaining will be most likely a demand that the wage increases or other benefit changes be better than otherwise proposed, NLRB law requires the regular increase be put into place and that you afford the Union a chance to bargain over those decisions as well as the effects of those decisions.

Finally, in order to commence bargaining over what will be our first collective bargaining agreement, we will need the following information:

- 1. A list of current employees including their names, dates of hire and dates of hire as a Registered Nurse (if different), status (e.g., full-time, part-time, or per diem), current hourly wage rate (including hourly wage premiums and/or differentials), wage increases and type (equity, merit, etc.) over the last three years (including effective dates of increase); wage increases and type (equity, merit, etc.) over the last five years (including effective dates of increase); fringe benefits (type, amount, and dates of receipt), job classifications, shifts (including shift length by hours), last known home addresses, and phone numbers;
- 2. A copy of all written company personnel policies and/or procedures currently in effect, including the Employee Handbook;

- 3. A written statement of all company policies and/or procedures other than those mentioned in Number 2 above;
- 4. A copy of all company fringe benefit plans including pension, 401(k), profit sharing, stock incentive, health and welfare, training, legal services, child care or any other plans which relate to the employees;
- 5. Copies of all current job descriptions for all bargaining unit positions;
- 6. Copies of all practices, procedures and methods, utilized in order to determine the amount and distribution of pay, wage and/or other remuneration to bargaining unit employees.
- 7. Copies of any charges and/or complaints against the Employer by bargaining unit employees filed under state and/or federal fair employment practice laws. This information is necessary in order that the Union can determine what employment related issues are of concern to bargaining unit employees, and in what ways the Employer has worked to the detriment of bargaining unit employees' interests. With this information the Union can bargain for necessary changes and protections within the framework of the collective bargaining agreement;
- 8. The following information related to all benefit plans which bargaining unit employees are either a participant of and/or have the option of participating in. Benefit plans include, but are not limited to, medical, dental, AD&D, long term disability, group life, dependent life, flexible spending accounts, and pension plan 401(K).
 - (a) The number of bargaining unit employees enrolled in each plan.
 - (b) The dollar amount of any mandatory employee contributions to each plan.
 - (c) Plan document.
 - (d) Any trust agreement related to each plan.
 - (e) The latest Summary Plan for each plan with all amendments.
 - (f) Any rules/regulations governing the operation of each plan not included above.
 - (g) The last three 5500s filed with the Federal Government.
 - (h) The last three audited financial statements.
 - (i) The last three actuarial reports, if any.
 - (j) The last three Summary Annual Reports distributed to plan participants.

- (k) The last three Summary of Material Modifications distributed to participants.
- (l) Any contracts between the plan and any third party including, but not limited to, insurance contracts and contracts with custodians of assets and investment managers.
- (m) Any policies adopted by the fiduciaries of the plan, including but not limited to, any investment policy, trustee expense policy, cost sharing policy, and funding policy.
- (n) Any insurance policy and/or bonding policy covering the plan and its fiduciaries.
- (o) Last Internal Revenue Service determination of the tax qualification for the plan.
- (p) Any document which shows the current assets of each plan including a description of those assets.
- (q) Copies of all claims for coverage under the plan made by bargaining unit employees during the last five years as well as copies of any correspondence or other documents with respect to the processing of those claims and the payments of those claims; and
- (r) The name, address and principal contact of the office which administers each plan.
- 9. The total sick leave usage of bargaining unit employees for the past 24 month period.
- 10. The total number of canceled shifts (low census days) for bargaining unit employees for the past 24 month period.
- 11. The total number of involuntary overtime hours imposed on bargaining unit employees for the past 24 month period.
- 12. The total costs of benefits (benefit plans include, but are not limited to, medical, dental, AD&D, long term disability, group life, dependent life, flexible spending accounts, and pension plan 401(K)) for bargaining unit employees for the past 24 month period.
- 13. The average costs of benefits (benefit plans include, but are not limited to, medical, dental, AD&D, long term disability, group life, dependent life, flexible spending accounts, and pension plan 401(K)) per bargaining unit employee each month for the past 24 month period.
- 14. With respect to bargaining unit members, copies of all disciplinary notices, warnings, or records of disciplinary personnel actions for the last year.

15. Copies of all collective bargaining agreements which are currently in effect between this Employer and any union and copies of all collective bargaining agreements between this employer and any union which have expired at any time during the last five years.

We are concerned in bargaining with respect to any possibility that our members will be charged with any civil penalty or criminal offense arising out of the performance of their duties. For purposes of bargaining over working conditions that will prevent such charges against our members or protect them in the event such charges are brought we are asking you to provide the following information:

- 16. A list of all local, state and federal laws, statutes or ordinance which you believe govern the operation of your business.
- 17. A list of all notices which you have posted at your work locations which notices are required by any state or federal law.
- 18. Copies of all citation, indictments, criminal charges, information, other documents reflecting any charges by any public agency or authority under any criminal or civil statute against the Employer for the last five years. For each such document, please provide a complete copy of the document reflecting the charges, and any document which reflects the disposition of said charges.
- 19. Copies of all citation, indictments, criminal charges, information, other documents reflecting any charges by any public agency or authority under any criminal or civil statute against the Employer for the last three years. For each such document, please provide a complete copy of the document reflecting the charges, and any document which reflects the disposition of said charges.
- 20. A copy of all company policies which concern, mention or relate to any of the laws, ordinances or statutes referred to in request number 49.
- 21. A list of all employees who were, in any way, involved in the charges or citations mentioned above. For any employee who was alleged to have committed or accused of any wrong doing, please provide the nature of the alleged wrongdoing and the nature of any discipline, if any, which was imposed upon said employee.
- 22. A copy of all inquiries from any public official concerning the operation of the business where that inquiry concerned any matter with civil or criminal penalties attached to the operations of the business. Included should be a copy of the company's response is any.
- 23. Copies of all public liability policies currently in effect including the amount of premium paid for such policies.

Our members are concerned with respect to whether they will be disciplined under any circumstances where the Employer has knowledge that they have committed any criminal offense. Note that information regarding employees outside the bargaining unit is relevant to determine the Employer's practice and to insure that there is no discriminatory treatment of bargaining unit members. For purposes of evaluating this, we are asking you to provide the following information:

- 24. List the names of all employees whom to the Employer's knowledge have been charged with or convicted of any criminal offense no matter how minor (Whether misdemeanor, infraction, felony or otherwise).
- 25. For each employee charged or convicted, please provide the name of the employee, the date upon which the employee was charged or convicted or said offense, the results of the criminal proceeding, any action, if any, taken by the Employer. This information should be provided for the last five years.
- 26. For each employee charged or convicted, please provide the name of the employee, the date upon which the employee was charged or convicted or said offense, the results of the criminal proceeding, any action, if any, taken by the Employer. This information should be provided for the last three years.
- 27. Copies of all disciplinary notices, warnings or records of disciplinary personnel actions for the last year.

Our members are interested in their right to promotion both within the bargaining unit as well as to promotion from positions within the bargaining unit to positions outside the bargaining unit. For purposes of this bargaining we need the following information:

- 28. A list of all employees who have been promoted either to classifications in the bargaining unit or from classifications within the bargaining unit to positions outside the bargaining unit, the classification to which they were promoted, the date of the promotion, the pay rate when promoted, the pay rate of the promotion, and the reason or reasons for the promotion.
- 29. With respect to all positions which have been filled by hiring from the outside please state the date an opening occurred, the nature of the position, the pay rate and the reason or reasons individuals were hired from the outside rather than promoting from within.
- 30. With respect to all employees who have been denied a promotion within the last five years please give the name of the employee, the date of the denial of the promotion and the reason or reasons the person was denied a promotion.

Our members are interested in having training programs so that they may perform their current tasks better and/or be trained for better positions. For such bargaining we are asking that you provide the following information:

- 31. A copy of any and all company training programs.
- 32. The names of all employees who have been involved in any training program during the last five years with the date or dates of such training program, a description of the training program and the name of the individuals conducting the training program.
- 33. Please provide the names of all employees who have asked to be trained but have been denied any training during the last five years with the dates of the denial and reason for the denial.

Our members are interested in having a fair and equitable leave policy whether those leaves are for short or long periods. Such leaves may be for many purposes including funeral, further study, travel, maternity, paternity, family obligations, adoption, illness or recreation. For purposes of bargaining over such an issue we ask that you provide the following information:

- 34. A copy of all company leave policies.
- 35. A list of all bargaining unit employees who have taken leave for any period of time for any purpose within the last five years. For each employee give the name of the employee, the date the leave began, the date the leave ended, and the reason for the leave.
- 36. With respect to any bargaining unit employee who has been denied any leave for the last five years please give the name of the employee, the date the employee was denied leave and the reason or reasons that the employee was denied such leave.

Our members are concerned about the possibility of job and benefit loss should the company be restructured, sold or taken over. In order to bargain over such issues we need the following information:

- 37. A copy of the bylaws and articles of incorporation.
- 38. A list of the current shareholders showing the amount of shares and class of shares owned.

- 39. Financial statements for the last five years.
- 40. Copies of all correspondence which concern the possibility of restructuring, sale and/or takeover of the company for the last five years.

To the extent that there is a cafeteria or vending machines, the price of food impacts our members. We are, therefore, asking that you provide the following:

41. A complete list of all food items which are available for sale to employees from vending machines or an employee cafeteria. That list should include all items which have been sold in the last year as well as the price.

The Americans with Disabilities Act ("ADA") imposes obligations on the employer to accommodate disabilities. Obligations are likewise placed on the Union with respect to accommodating those disabilities where there is a collective bargaining agreement or collective bargaining relationship. For purpose of bargaining over the implementation of any procedures or policies with respect to the ADA, we are requesting the following:

- 42. Copies of all employment applications currently used.
- 43. A description of all medical tests required of all applicants and employees.
- 44. A list of all employees who have been accommodated during the last five years for any physical or mental disability or handicap. For each such person please give the employees' name, a description of the disability, a description of the accommodation and a statement of the estimated cost to the company of accommodating that individual.
- 45. A list of all employees who have not been accommodated during the last five years for any physical or mental disability or handicap. For each such person please give the employees' name, a description of the disability, a description of the reason why no accommodation was made for the disability and a statement of the estimated cost to the company had it accommodated the disability, of accommodating that individual.
- 46. A list of all jobs that have been restructured in the last five years describing each restructuring that has occurred and the reasons for the restructuring.
- 47. A copy of any charges filed with any state or federal agency in the last five years alleging handicap or physical or mental disability discrimination.

Please consider this letter to be a continuing demand for the information set forth above.

Once we have received this information, we will call you to arrange a mutually convenient date, time and place to begin bargaining. Given that bargaining cannot commence until the information has been provided, your prompt attention to these requests will be greatly appreciated.

Very truly yours,

Kathy J. Sackman, RN

KJS/rr

cc: Mary Schottmiller



April 14, 2010

Kathy Sackman, RN UNAC/UHCP 955 Overland Court, Suite 150 San Dimas, CA 91773-1718

Re:

Demand for Bargaining and Request for Information For Registered Nurses Unit at Chino Valley Medical Center

Dear Kathy:

We are in receipt of your letter dated April 9, 2010 demanding bargaining and requesting information. As you are aware, we filed objections with the National Labor Relations Board on April 9, 2010 alleging numerous objections to the election. As such, until we receive a valid certification of the election, we will not produce the documents requested nor agree to bargain at this time.

If you have any questions, feel free to contact me.

Very truly yours,

Mary K. Schottmiller

Assistant General Counsel

Chino Valley Medical Center

Max Shar

PROOF OF SERVICE BY E-MAIL

I am employed in San Diego County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 501 W. Broadway, Suite 900, San Diego, California 92101.3577. On March 24, 2011, I served a true and correct copy of the within documents:

ERRATA

by e-mailing the document to the following persons at the e-mail addresses listed below:

Lisa Demidovich, Esq.
United Nurses Associations of California/
Union of Health Care Professionals
955 Overland Court, Suite 150
San Dimas, CA 91773-1718

E-Mail Address lisa@unac-ca.org

Joanna Silverman, Esq. Field Attorney National Labor Relations Board, Region 31 11150 W. Olympic Boulevard, Suite 700 Los Angeles, CA 90064-1824 <u>E-Mail Address</u> joanna.silverman@nlrb.gov

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on March 24, 2011, at San Diego, California.

ROSA DYER

Bose Dy